IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 29255 of 2007(G)

AGAINST THE ORDER IN EP.58/04 IN
OS.92/2002 of SUB COURT,THODUPUZHA

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PETITIONER:

ALEX SEBASTIAN, S/O.SEBASTIAN
AGED 41, RESIDING AT PERUMPUZHA PATHIYIL HOUSE,
MUTTOM KARA AND VILLAGE,
THODUPUZHA,IDUKKI DISTRICT.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENT:

KERALA PERMANENT FUND LTD, A COMPNAY REG
ISTERED UNDER THE COMPANIES ACT 1956, HAVING
ITS HEAD QUARTERS AT ALUVA AND HAVING BRANCH AT
THODUPUZHA,REPRESENTED BY ITS BRANCH MANGER,
THODUPUZHA BRANCH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.29255 of 2007

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Dated this the 4th day of October, 2007.

JUDGMENT

This Writ Petition is filed for setting aside Exts.P6 and P7. It is the case of the writ petitioner that the property having an extent of 2.21 acres which belongs to him had been put up in action with an upset price of Rs.9,27,039 whereas the property is situated in the heart of a town and it will fetch a value of more than Rs.10 crores and therefore, if the same materialises, it will cause great hardship to him. It is also contended that he had also moved an application for setting aside the ex parte order and that is also pending before the court below.

2. The Apex Court as well as this Court in very many decisions had clearly laid down the principle that only the minimum requisite portion that is necessary to discharge the decree debt need be sold in auction in a sale under Order 21 of C.P.C. It is true that the writ petitioner has not filed any

objection in that direction before the court below.

3. Therefore, I am inclined to give a direction to the court below to defer the sale, which is posted for tomorrow for a period of two months and meanwhile consider the application for setting aside the ex parte order, pass appropriate orders and proceed with the matter in accordance law and bearing the principles laid down by the Apex Court as well as this Court as well as the mandatory provisions of Order 21 Rules 66 to 72 of C.P.C.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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